

ATTACHMENT TO PAPER NO. 20110721

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Amendments & Claim Status

[1] This Attachment to Paper No. 20110721 is responsive to Response Under 37 C.F.R. § 1.116 (“Response”) received Jul. 7, 2011, and the examiner-initiated interview conducted Jul. 20, 2011. Claims 1-10 remain pending.

Claim Rejections - 35 U.S.C. § 112

[2] The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

New Matter, Remarks Unpersuasive

[3] Response at 2 and 3 regarding rejected Claims 1-10 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement have been respectfully and fully considered, but are found unpersuasive.

Applicant argues it is clear that, in view of Specification at 7, ll. 24-27; and 9, ll. 7-12, when a landmark is selected in one image, a corresponding landmark is selected in the other image. Response at 2.

However, though Applicant points to the two specific images A and B from the Specification (i.e., with respect to the “reference” and “floating” images) the cited areas of the Specification do not reflect the set of images from figs. 3-6 (that would only be either the same reference or same floating image).

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Applicant argues figs. 3-6 are performed on both the first and second image (i.e., image A and B) separately. These figures instead show the same image. Figs. 3-6 are actually performed for one first image and one second image. There is no physical change to the image in any of Figs. 3-6. The selection of the landmarks does not represent a physical change to the image. Figs. 3-6 are the same image. Response at 3.

However, Examiner is allowed to interpret the "broadest reasonable interpretation consistent with the specification". See MPEP s. 2111. The specification explicitly supports that figs. 3-6 are also separate images and not the same image. See Specification at 5, ll. 30-31 (citing "Figs. 3 to 6 show simplified sketches of images").

Suggested Claim Language to Remove 35 U.S.C. § 112, First Paragraph Rejection

To remove the 35 U.S.C. § 112, first paragraph rejection, it is suggested to change all instances of the "first image" to "floating first image", and "second image" to "reference second image" in the claims. It is agreed by Examiner, in light of the specification, figs. 3-6 are in fact for one floating image and for one reference image separately.

Claim Rejections - 35 U.S.C. § 102

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Pardas, Remarks Unpersuasive

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[5] Response at 4-6 regarding rejected Claims 1 and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Pardas et al., U.S. Pub. No. 2003/0048955 (“Pardas”) have been respectfully and fully considered, but are found unpersuasive.

Applicant argues the different levels from fig. 20 of Pardas are not different images, but the same image. Response at 5.

Examiner agrees a same underlying image exists in fig. 20. However, the set of mesh proposals in fig. 20 divides the underlying image into a plurality of images (or “sub-images”). Each mesh proposal in fig. 20, comprising its own distinct set of pixels and size, is its own image. The rejection is drawn to the plurality of images, not the underlying image as argued by Applicant.

Applicant argues the determinations of Pardas are not with regard to two different images. A segmentation of a large triangle into two triangles is not a new image. The segmented triangle is merely a modification of the original, larger triangle. Response at 6.

However, the fact the “hierarchical set of meshes” (Pardas at ¶ 0067) in fig. 20 are separate and each contain their own distinct set of pixels (whether the same or not is irrelevant) creates separate images.

Erdem, Remarks Persuasive

[6] Response at 6-8 regarding rejected Claims 1 and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Erdem et al., U.S. Pat. No. 5,982,909 (“Erdem”) have been respectfully and fully considered, and are found persuasive.

The 102(b) rejection of Claims 1 and 8-10 (of Erdem) and 103(a) rejection of Claim 7 (of Erdem in view of Moshfeghi) is withdrawn.

Conclusion

[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID ZARKA whose telephone number is (571)270-1578 and fax number (571)270-2578. The examiner can normally be reached Monday - Friday 7:30 - 17:00 ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453/7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Zarka/

Primary Examiner, Art Unit 2624